

VIA UNITED PARCEL SERVICE

U.S. Environmental Protection Agency
Region 4, Freedom of Information
SNAFC Bldg., 61 Forsyth Street, S.W., 9th Floor
Atlanta, Georgia 30303-8960

Dear FOIA Officer:

Enclosed you will find a copy of a request for agency records under the Freedom of Information Act (FOIA, 5 U.S.C. 552), from Geoffrey R. Gisler, Esq. to NOAA. Mr. Gisler specifically requested the following information:

- All documents related to NOAA Fisheries evaluation of PCS Phosphate's June 3, 2009 permit, Action ID 200110096.
- All documents related to the U.S. Environmental Protection Agency's (EPA) evaluation of the permit decision under Clean Water Act Section 404(q) and NOAA Fisheries consideration of taking action under 404(q).
- All internal communications with representatives or employees of PCS Phosphate, CZR Incorporated, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, EPA, North Carolina Division of Water Quality, and any other state or federal agency.
- All evaluations of the permitted mine plan, Modified Alternative L, all previous versions of Alternative L, including but not limited to Modified Alternative L as certified by the N.C. Division of Water Quality and the EPA Alternative presented in its detailed evaluation comments.

A copy of the request is enclosed. We have located records pertaining to this request that are the exclusive or primary concern of the EPA. Accordingly, per our governing regulations, 15 C.F.R. Part 4 (2011) (copy enclosed), we hereby refer the requester to you for further action related to these records. A copy of the requested records is enclosed on a compact disk. The records referral is set forth below:

Records Referral
E-mails¹

Number of Pages
443

Number of Pages
Released to Requester
93²

¹ E-mails - includes any e-mail attachments.

² The SER has released its portion of the records to the requester (93 pages). For your reference, a copy of the pages or portions of pages that SER released are enclosed on the compact disk.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701
(727) 551-5762; FAX (727) 824-5341
<http://sero.nmfs.noaa.gov>

AUG 05 2011 F/SER1:BJS
FOIA #2009-00476

SEARCHED INDEXED
SERIAL NO. 00707-11
9/14/11
RE: FOIA Request #2009-00476
KC
Clerk



Please respond directly to Mr. Gisler, pursuant to the instructions in the FOIA request, regarding these records and provide us with a copy of your letter.

If you have any questions, please contact Beverly J. Smith, Southeast Region FOIA Coordinator, at (727) 551-5762.

Sincerely,

Miles M. Crum

for

Roy E. Crabtree, Ph.D.
Regional Administrator

Enclosures

cc: Geoffrey R. Gisler, Esq.

2009-00476 - U; 1-16

SOUTHERN ENVIRONMENTAL LAW CENTER

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Asheville, NC
Charleston, SC
Richmond, VA
Washington, DC

June 16, 2009

Via U.S. and electronic mail

National Oceanic and Atmospheric Administration
Public Reference Facility (OFA56)
1315 East West Highway (SSMC3)
Room 10730
Silver Spring, Maryland 20910
FOIA@noaa.gov

Re: Freedom of Information Act Request -- PCS Phosphate Section 404 Clean Water Act permit

FOIA Officer:

On behalf of the Environmental Defense Fund ("EDF") and pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq., the Southern Environmental Law Center ("SELC") requests all documents related to NOAA Fisheries/National Marine Fisheries Service's evaluation of PCS Phosphate's June 3, 2009 permit - Action ID 200110096 - issued by the Wilmington District of the U.S. Army Corps of Engineers. This request specifically includes all documents related to the U.S. Environmental Protection Agency's elevation of the permit decision under Clean Water Act Section 404(q) as described in a letter dated April 3, 2009 from Mr. Michael Shapiro, U.S. EPA, to Mr. John Woodley, U.S. Army Corps of Engineers, and NOAA Fisheries consideration of taking action under Section 404(q) as well as NOAA Fisheries's consideration of taking action under 404(q). In addition to documents received and produced by NOAA Fisheries, this request includes all documentation of internal communications as well as communications with representatives or employees of PCS Phosphate, CZR Incorporated, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, N.C. Division of Water Quality, and any other state or federal agency. This request extends to evaluations of the permitted mine plan, Modified Alt. I, all previous versions of Alternative I, including, but not limited to, Modified Alt. I as certified by the N.C. Division of Water Quality, and the EPA Alternative presented in EPA's detailed elevation comments.

SELC requests that you provide the documents without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), because reduction or waiver of fees would contribute to

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public understanding of the Corps's activities and is not in SELC's commercial interest. SELC is a 501(c)(3) non-profit organization with 20 years of experience disseminating information throughout the Southeast. EDF has more than 500,000 members nationwide and 9,000 members in North Carolina and decades of experience communicating with members regarding pressing environmental issues like the PCS Phosphate mine expansion. The documents obtained by this request will allow the public to develop an informed opinion regarding the expansion of the PCS Phosphate Aurora mine. Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable costs necessary to fulfill this request, although we request that you contact us before processing this request to discuss fees. We reserve our rights to appeal a fee waiver or reduction denial.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552 (a)(6)(A)(i). We request that NOAA Fisheries comply with the statutory deadline.

Thank you for your prompt attention to this matter. I look forward to the opportunity to review the requested records. If you have any questions regarding this request, please feel free to call me at (919) 967-1450.

Sincerely,



Geoffrey R. Gislser